

Remarks

Applicants note that in paragraphs 1 and 2, the Examiner has issued a non-statutory double-patenting rejection. Since this is a provisional rejection, Applicants will not deal with the rejection in detail at this time. However, it should be pointed out that the application 11/668,768 referred to by the Examiner is filed prior to the present application. Therefore, if a double-patenting rejection is proper, which Applicants submit it is not, the double-patenting rejection should be issued in the other Office Action. Still more importantly, for the reasons that will be discussed with respect to the rejection on the merits, the Miller patent is not applicable and does not form a proper basis for rejecting the present claims.

Claims 1-4, and 11-14 have been rejected under 35 U.S.C. § 103a as unpatentable over Harrold (2005/0258279) and Harrold et al. (U.S. Patent 6,120,634) in view of Miller et al. The Harrold '634 patent describes a substantially different process than that of the present claimed invention. In stations A, B and C, the strip 12, or outer tube, is formed. Then at station D, a bead of material is extruded to form a secondary flow path on a "form wheel" (as opposed to on a substrate). Then, in column 10, line 21, it notes that the continuous bead 186 on the form wheel is then cooled and then added to the strip 12. However, it is necessary that the strip 12 be reheated to attach the cooled bead 186.

The Harrold application describes the forming of a secondary flow path only by way of reference to the Harrold patent. Applicants do not find any description in the Harrold application regarding the forming of a secondary flow path on a substrate formed from a bead of material. Quite possibly it uses a similar process as previously described with respect to the Harrold patent. Therefore, Applicants submit that there is no process shown, described or suggested in the prior art which provides for the extrusion of a bead of material onto an extruded substrate and forming the flow path on the extruded bead of material.

It appears that the Examiner is then using the newly cited Miller patent to teach somewhat of the same concept. Specifically, the Examiner refers to extruding a bead 110 on a substrate 136 (see Figure 4). Applicants submit that this is an incorrect reading of the Miller

patent. 110 is not a bead of material. In fact, it is a discrete emitter. This is a previously formed emitter and is a unitary or discrete emitter unit. To further clarify the present claimed invention, Applicants have added, in all of the independent claims, that when forming the flow path, the flow path is formed "from the bead of material extruded on the substrate". The 110 referred to in the Miller patent is simply not a bead, but it is a discrete emitter.

Applicants do realize that Miller does refer to a bead of material in column 5, line 38 with reference to Figure 3 and also in claim 3. However, this bead of material is not the same as the present claimed invention. The bead of material used in Miller is used to form a cylindrical tube from a planar web. The web joins the two edges in order for a tube to be formed. This is in contrast to the present claimed invention where a tube is extruded. As previously mentioned, Applicant has amended the independent claims to specifically refer to the bead of material being used to form the flow path. There simply is no suggestion or teaching of this in the Miller patent.

Applicants respectfully submit that all the independent claims, 1, 7 and 14, are not shown or described in the prior art and are therefore patentable. Accordingly, Applicants also submit that the dependent claims are also allowable for the reasons noted above.

With respect to claims 4 and 14, the Examiner states that it would be obvious to one of ordinary skill in the art to cool the extruded substrate to a temperature below 160°F and would be achieved through routine experimentation. However, Applicants respectfully submit that they are cooling the substrate on which the secondary flow path is extruded. There is not equivalent substrate in the Harrold patent, application or the Miller patent. Accordingly, there could be no routine experimentation as this does not exist in the prior art.

Still further, with respect to claims 3 and 8, there is no teaching of a plurality of protrusions being formed for the purpose of enhancing heat transfer. Applicants respectfully request reconsideration and allowance of all the claims remaining in the application. If the Examiner has any questions, or believes that an interview would be helpful in moving this application forward toward allowance, the Examiner is respectfully requested to call the undersigned at 612.331.7415.

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Respectfully submitted,

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